

1 HB425
2 105786-1
3 By Representatives Wood, Ball, McCutcheon, Treadaway, Laird
4 and Bridges (Constitutional Amendment)
5 RFD: Tourism and Travel
6 First Read: 05-FEB-09

8 SYNOPSIS: This bill proposes an amendment to Section
9 65 of the Constitution of Alabama of 1901, now
10 appearing as Section 65 of the Official
11 Recompilation of the Constitution of Alabama of
12 1901, as amended.

13 This proposed amendment would specify that
14 the Legislature would have no power to authorize
15 any gambling activity including lotteries, gift
16 enterprises, or other games of chance and would
17 specify such activity is illegal. The proposed
18 amendment would specify that the Legislature shall
19 pass laws to further prohibit such gambling
20 activity.

21 The proposed amendment would provide what is
22 deemed a game of chance.

23 The proposed amendment would specify what
24 entities may operate bingo games currently
25 authorized by constitutional amendment.

1 This proposed amendment would specify when
2 it would be illegal to operate a sweepstakes and
3 would specify applicable penalties.

4 This proposed amendment would specify that
5 no constitutional amendment currently in effect or
6 subsequently ratified could authorize an electronic
7 device to engage in bingo or any other gambling
8 activity. The proposed amendment would preserve
9 specified provisions to the extent such provisions
10 allow pari-mutuel wagering or nonelectronic forms
11 of gambling.

12 This proposed amendment would provide that
13 any proposed constitutional amendment authorizing
14 any gambling activity would be subject to a
15 statewide vote.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT
20

21 Proposing an amendment to Section 65 of the
22 Constitution of Alabama of 1901, now appearing as Section 65
23 of the Official Recompilation of the Constitution of Alabama
24 of 1901, as amended; to further regulate and prohibit certain
25 gambling activities; to provide for the application of certain
26 constitutional amendments and laws; and to provide that any

1 proposed constitutional amendment authorizing any gambling
2 activity shall be subject to a statewide vote.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. The following amendment to the
5 Constitution of Alabama of 1901, as amended, is proposed and
6 shall become valid as a part thereof when approved by a
7 majority of the qualified electors voting thereon and in
8 accordance with Sections 284, 285, and 287 of the Constitution
9 of Alabama of 1901, as amended:

10 PROPOSED AMENDMENT

11 Section 65 of the Constitution of Alabama of 1901,
12 now appearing as Section 65 of the Official Recompile of
13 the Constitution of Alabama of 1901, as amended, is amended to
14 read as follows:

15 "Section 65.

16 "Part I. The legislature shall have no power to
17 authorize any gambling activity, including, but not limited
18 to, lotteries, or gift enterprises, or any other games of
19 chance, including, but not limited to, pari-mutuel wagering
20 for any purposes, and such activity shall be illegal. The
21 legislature shall pass laws to further prohibit any gambling
22 activity, including, but not limited to, the sale in this
23 state of lottery or gift enterprise tickets, or tickets in any
24 scheme in the nature of a lottery or of any other game of
25 chance; and all acts, or parts of acts heretofore passed by
26 the legislature of this state, authorizing a lottery or

1 lotteries, and all acts amendatory thereof, or supplemental
2 thereto, are hereby ~~avoided~~ void.

3 "Part II. An act or activity shall be deemed a game
4 of chance under this section if each of the following apply:

5 "(a) It is played or engaged in for consideration or
6 by staking or risking money or some other thing of value.

7 "(b) It is played or engaged in for the purpose of
8 obtaining money or other thing of value or results in the
9 distribution of money or other thing of value.

10 "(c) The outcome, measured by a single play or over
11 multiple plays, is determined in material degree by chance,
12 notwithstanding that the outcome is also determined in equal
13 or greater degree by other factors.

14 "Such games of chance do not include bona fide
15 business transactions valid under the law of contracts,
16 including, but not limited to, contracts for the purchase or
17 sale at a future date of securities or commodities, and
18 agreements to compensate for loss caused by the happening of
19 chance, including, but not limited to, contracts of indemnity
20 or guaranty and life, health, and accident insurance.

21 "Part III. Bingo games currently authorized by
22 constitutional amendment shall be operated only by a
23 religious, charitable, educational, fraternal, or benevolent
24 nonprofit organization which qualifies as an exempt
25 organization under Section 501(c) of the Internal Revenue
26 Code, or corresponding or future provision thereof, and all
27 proceeds from any bingo game shall be used exclusively for the

1 religious, charitable, educational, fraternal, or benevolent
2 nonprofit organization.

3 "Part IV. (a) It shall be illegal to operate or
4 sponsor a sweepstakes if any of the following occurs:

5 "(1) The person or entity that operates or sponsors
6 the sweepstakes is primarily engaged in the business of
7 gambling, operating a sweepstakes, operating coin-operated
8 amusement machines, or pari-mutuel wagering.

9 "(2) The payout of all sweepstakes sponsored by an
10 entity over the course of one year exceeds one percent of the
11 gross receipts of that sponsoring entity during that same
12 year.

13 "(3) The payout of all sweepstakes sponsored by an
14 entity over the course of one year exceeds one percent of the
15 total annual expenses of that sponsoring entity as reported on
16 its federal tax returns during that same year.

17 "(b) The gambling offenses listed in the criminal
18 code, as amended, shall apply to an illegal sweepstakes.

19 "Part V. No constitutional amendment currently in
20 effect or subsequently ratified shall authorize any person or
21 entity to use an electronic device to engage in bingo or any
22 other gambling activity. Nothing in this section shall be
23 construed as repealing the following to the extent they allow
24 pari-mutuel wagering: Section 11-65-1 et seq.; Act 83-575; Act
25 86-545, as amended; and Act 376 of 1975. Nothing in this
26 section shall be construed as repealing the following to the
27 extent they allow nonelectronic versions of gambling:

1 Amendments 386, 387, 413, 440, 506, 508, 542, 550, 565, 569,
2 599, 600, 612, 674, 692, 732, 743, 744 of this constitution.

3 "Part VI. Notwithstanding any other provision of
4 this constitution or law, any proposed constitutional
5 amendment authorizing any gambling activity shall be subject
6 to a statewide vote. This part shall not be construed as
7 repealing any local constitutional amendment or part thereof
8 currently in effect."

9 Section 2. An election upon the proposed amendment
10 shall be held in accordance with Sections 284 and 285 of the
11 Constitution of Alabama of 1901, now appearing as Sections 284
12 and 285 of the Official Recompilation of the Constitution of
13 Alabama of 1901, as amended, and the election laws of this
14 state.

15 Section 3. The appropriate election official shall
16 assign a ballot number for the proposed constitutional
17 amendment on the election ballot and shall set forth the
18 following description of the substance or subject matter of
19 the proposed constitutional amendment:

20 "Proposing an amendment to the Constitution of
21 Alabama of 1901, to regulate and prohibit certain gambling
22 activities, including games of chance, bingo, and sweepstakes;
23 to provide for the application of certain constitutional
24 amendments and other laws; and to provide that any proposed
25 constitutional amendment authorizing any gambling activity
26 shall be subject to a statewide vote.

27 "Proposed by Act ____."

1 This description shall be followed by the following
2 language:
3 "Yes () No ()."